

#21

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the REISSUE PATENT APPLICATION

of: Robert A. Vito
For: U.S. Patent 5,870,912
Application No.: 09/783,774
Confirmation No.: 2262
Filed: February 15, 2001
For: ANTI-THEFT BRAKE LOCKING
DEVICE
Group: 3676
Examiner: Barrett, Suzanne Lale Dino

Our File: VIT-PT034RE
Date: June 4, 2003

FAX RECEIVED**JUN 4 2003****PETITIONS OFFICE****AMENDMENT**

Box DAC
Commissioner for Patents
Washington, D.C. 20231

Sir:

The following Amendment is respectfully submitted in response to the Office Action, dated December 4, 2002 (Paper No. 13), in which the Examiner set a three month shortened statutory period for Reply that expired on March 4, 2003. The Office Action stated that Extensions of Time under 37 C.F.R. § 1.136 (a) will not be permitted. Accordingly, Applicant has filed herewith a Petition to Revive under 37 C.F.R. § 1.137(b) requesting revival and entry of this Amendment and a Request for Continued Examination. Entry of the following Amendment is respectfully requested.

ATTORNEY DOCKET NUMBER

Due to the transfer of these files to Ruy Garcia-Zamor at Volpe and Koenig, P. C., the attorney docket number for this application has been changed to "VIT-

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PT034RE". Applicant respectfully requests that the Examiner enter the new attorney docket number into the Office's records for use with further correspondence.

ALLOWED CLAIMS

On page 6 in paragraph number 13 of the outstanding Office Action, the Examiner has allowed claims 1-7 and 9.

REISSUE OATH/DECLARATION

The Examiner has noted that the reissue oath filed with this application was defective because it failed to contain a statement as to Applicant's belief that the original patent is wholly or partly inoperative or invalid by the reason of the patentee claiming less than the patentee had a right to claim in the patent. The Examiner also noted that the reissue oath was defective because it failed to identify at least one broadening error. The Examiner noted that the reissue oath was also defective for failing to specify at least one example of a broadening of the claims.

In response, Applicant respectfully submits the attached reissue oath and supplemental reissue oath. Applicant respectfully submits that such declarations correct the defects noted by the Examiner. Applicant respectfully requests that the Examiner reconsider and withdraw the objections to the reissue oath/declaration.

CLAIM REJECTIONS BASED ON DEFECTIVE REISSUE DECLARATION

The Examiner rejected claims 1-7 and 9 as being based upon a defective reissue declaration. As noted above, Applicant has submitted a complete reissue oath/declaration and supplemental reissue oath/declaration. Applicant respectfully submits that claims 1-7 and 9 are no longer based upon a defective reissue declaration and requests that the Examiner reconsider and withdraw this rejection.

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**REQUEST FOR SUBMISSION OF ORIGINAL
PATENT OR STATEMENT AS TO LOSS**

Applicant is unable to obtain the original ribbon copy of U.S. Patent 5,870,912. Accordingly, Applicant respectfully submits the attached Affidavit testifying to the loss or inaccessibility of the original patent. Applicant respectfully requests that the Examiner enter this Affidavit and reconsider and withdraw the requirement that the original copy of U.S. Patent 5,870, 912 be submitted.

DRAWINGS

The Examiner has required that formal drawings including the proposed drawing changes and including the label "amended" for the amended figures be submitted. Accordingly, Applicant respectfully submits herewith, formal drawings for Figures 1-4 which incorporate the amendments to Figures 1,3, and 4. As required by the Examiner, Figures 1, 3, and 4 have been labeled "amended". Applicant respectfully requests that the Examiner approve the drawings.

SPECIFICATION

The Examiner noted that the title page was not included with the original filing of the reissue application. In response, the Examiner placed a copy of the title page in the file and made the substitution of the new abstract presented in the Amendment of February 15, 2001. Applicant thanks the Examiner for her generosity and courtesy.

RESPONSE TO AMENDMENT

The Examiner noted that the Amendment of February 7, 2002 included clean copies of the claims which should not be submitted in a reissue application. The Examiner noted that all Amendments in a reissue application must be made with regard to the original patent and that any amendment to the language must be accounted for by the use of brackets and deletions. The Examiner has requested

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that the amendment of February 7, 2002 be resubmitted with appropriately marked up claims.

In response, Applicant has resubmitted the amendments and arguments of the February 7, 2002 Amendment in the attached Resubmission of Amendment of February 7, 2002. Entry of the Resubmission of Amendment February 7, 2002 is respectfully requested. Applicant respectfully submits that claims 1-7 and 9 will be in condition for allowance upon the entry of the Resubmission of Amendment of February 7, 2002.

CLAIM REJECTIONS - 35 U.S.C. § 112, FIRST PARAGRAPH

The Examiner noted that the rejection claims 1-7 and 9 still stands because the Amendment of February 7, 2002 was improper and has not been entered. However, in paragraph 15 of the Office Action, the Examiner stated that the claims presented in the Amendment of February 7, 2002 would obviate the recapture rejection and define over the prior art of record if properly entered. Applicant respectfully requests that in view of the new reissue/oath declaration; the new supplemental reissue declaration; and the entry of the Resubmission of Amendment of February 7, 2002, that the Examiner reconsider and withdraw the Section 112 rejection of claims 1-7 and 9.

INVITATION

If the Examiner believes that any additional matters need to be addressed to place this application in condition for allowance, the Examiner is respectfully invited to contact the undersigned, by telephone, at the Examiner's convenience.